

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

ANNEMARIE B.,

Plaintiff,

v.

**1:23-CV-129
(FJS/CFH)**

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

APPEARANCES

OF COUNSEL

OLINSKY LAW GROUP

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Attorneys for Plaintiff

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**SOCIAL SECURITY ADMINISTRATION
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CANDACE M. BROWN CASEY, ESQ.

SCULLIN, Senior Judge

MEMORANDUM-DECISION AND ORDER

Plaintiff brought this action pursuant to 42 U.S.C. § 405(g), seeking review of Defendant Commissioner of Social Security's ("Commissioner") decision denying her applications for disability insurance and supplemental security income benefits. *See* Dkt. No. 1, Complaint. Plaintiff moved for judgment on the pleadings and for the Commissioner's decision to "be remanded for a directed finding of disability and calculation of benefits[.]" or, in the alternative, "for additional administrative proceedings including a de novo hearing and a new decision, preferably before a new ALJ." *See* Dkt. No. 14 at 12. The Commissioner moved to "remand[]

this case for further administrative proceedings pursuant to 42 U.S.C. § 405(g)." *See* Dkt. No. 21-1 at 3.

On February 5, 2024, Magistrate Judge Hummel issued a Report-Recommendation and Order, in which he recommended that this Court grant Plaintiff's motion for judgment on the pleadings "insofar as the matter is to be remanded to the Commissioner for further proceedings consistent with this Report-Recommendation & Order and that the ALJ's decision as to step 5 of his analysis be vacated" and grant the Commissioner's motion for judgment on the pleadings "insofar as the matter will be remanded for further proceedings[.]" *See* Dkt. No. 22 at 16.

Neither Plaintiff nor the Commissioner filed any objections to Magistrate Judge Hummel's recommendations and the time for them to do so has expired.

When a party does not object to a magistrate judge's report-recommendation, the court reviews that report-recommendation for clear error or manifest injustice. *See Linares v. Mahunik*, No. 9:05-CV-625, 2009 WL 3165660, *10 (N.D.N.Y. July 16, 2009) (citation and footnote omitted). After conducting this review, "the Court may 'accept, reject, or modify, in whole or in part, the . . . recommendations made by the magistrate judge.'" *Id.* (quoting 28 U.S.C. § 636(b)(1)(C)).

The Court has reviewed Magistrate Judge Hummel's February 5, 2024 Report-Recommendation and Order for clear error and manifest injustice; and, finding none, the Court hereby

ORDERS that Magistrate Judge Hummel's February 5, 2024 Report-Recommendation and Order is **ACCEPTED in its entirety** for the reasons stated therein; and the Court further

ORDERS that Plaintiff's motion for judgment on the pleadings, *see* Dkt. No. 14, is **GRANTED** insofar as this matter is remanded to the Commissioner for further proceedings

consistent with Magistrate Judge Hummel's Report-Recommendation and Order and that the ALJ's decision as to Step 5 of his analysis is vacated; and the Court further


ORDERS that the Commissioner's motion for judgment on the pleadings, *see* Dkt. No. 21, is **GRANTED** insofar as this matter will be remanded for further proceedings; and the Court further

ORDERS that Step 5 of the ALJ's decision is **VACATED** and this matter is **REMANDED**, pursuant to sentence four of 42 U.S.C. § 405(g), for further proceedings consistent with Magistrate Judge Hummel's Report-Recommendation and Order; and the Court further

ORDERS that the Clerk of the Court shall enter judgment in favor of Plaintiff and close this case.

IT IS SO ORDERED.

Dated: February 23, 2024
Syracuse, New York



Frederick J. Scullin, Jr.
Senior United States District Judge